THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P. No. 8029 of 2005

Dated: 05—08—2005.

Between:

M/s. Royal Fort Hotel,

Behind Municipal Corporation,

Asilmetta Junction,

Visakhapatnam, Represented by its

Executive Director Mr. V. Srinivasa Rao

…Petitioner.

A n d

The Director, Tourism Department,

Government of Andhra Pradesh,

Tankbund Road,

Hyderabad.

…Respondents.

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

AND

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O R D E R: (per Sri B. Sudershan Reddy, J)

The proceedings dated 27.02.2004 on the file of the Government of Andhra Pradesh, Tourism Department, a copy of which is made available for perusal of the Court, itself is self-explanatory. It is clearly stated in the proceedings that the petitioner submitted its application on 29.12.2003 through its Managing Director "for registration under notified Tourism Areas in New Tourism Policy 1998". The proceedings further reveal that the hotel has been inspected and found that the hotel project has been completed and it is brought under operation from 29th June 2002.

The short question that falls for consideration is whether the petitioner submitted its application within 180 days after the commencement of commercial operations on 29.6.2002 so as to enable it to claim the incentives spelt out in the New Tourism Policy 1998. The question is whether the respondents are bound to consider the application dated 29.12.2003 stated to have been filed by the petitioner, admittedly, after 180 days after the commencement of commercial operations. The petitioner admittedly did not file its application within 180 days.

Be that as it may, in the counter affidavit filed by the 1st respondent – Director of Tourism, it is admitted that the petitioner has made representations on 29.4.2004 and 17.3.2005 requesting the authority to place the matter before the State Tourism Promotion

Board for implementing certain incentives as per the Tourism Policy 1998. The Department vide its letter dated 29.5.2004 stated to have already placed the matter before the Government to take up the matter in the State Tourism Promotion Board for taking final decision on the implementation of sales tax exemption and other incentives.

In such view of the matter, it is for the authorities and the State Tourism Promotion Board to consider and decide as to whether the petitioner is entitled for the grant of any incentives though the application filed by the petitioner is a belated one. During the course of hearing of this writ petition it is brought to our notice by the learned Government Pleader that the Government has the power to consider even the belated applications submitted after expiry of 180 days from the actual date of commencement of commercial operations.

In such view of the matter, without expressing any opinion on the question as to whether the petitioner is entitled for the incentives and the benefits under the New Tourism Policy 1998, we direct the 1st respondent to consider the application of the petitioner in accordance with law for which purposes the application of the petitioner has already been forwarded by the Director of Tourism to the State Tourism Promotion Board. Appropriate decision shall be taken within a period of three months from the date of receipt of a copy of this order and the decision taken shall be communicated to the petitioner.

Sofar as deferring or postponing the collection of commercial taxes are concerned, no relief could be granted at this stage as it may depend upon the ultimate result of the decision to be taken by the respondents as to the entitlement of the petitioner for grant of incentives.

The writ petition is accordingly disposed of without any order as to costs.

B. Sudershan Reddy, J.

C.V. Ramulu, J.

Date: 05—08—2005.

MVB.